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LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

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October 7, 2014

Captain Duane Harris
Homicide Bureau
Los Angeles Sheriff's Department
5747 Rickenbacker Road
Commerce, California 90040

RE: J.S.I.D. File #14-0105
L.A.S.D. File #014-03015-1399-055

Dear Captain Harris:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the February 14, 2014, non-fatal shooting of Carl Chavis by Los Angeles Sheriff's Department (LASD) [redacted] and Deputy Michael Mabee. We have concluded that the above deputies acted lawfully in self-defense, in defense of others, and in an attempt to arrest a person they believed to be a dangerous felon.

The District Attorney's Command Center was notified of the shooting at approximately 2:00 p.m., on February 14, 2014. The District Attorney Response Team, comprised of Deputy District Attorney Natalie Adomian and Senior Investigator [redacted] responded to the location. They were given a briefing regarding the circumstances surrounding the shooting and a walk-through of the scene.

The following analysis is based on investigative reports, firearms analysis reports, crime scene diagrams and sketches, photographic evidence, medical records, internal LASD documents which were reviewed by the involved officers prior to the shooting and witness statements submitted to this office by LASD Detectives Domenick Recchia and John O'Brien. The voluntary statements of [redacted] and Deputy Mabee were considered as part of this analysis.

FACTUAL ANALYSIS

On February 14, 2014, members of the Los Angeles Sheriff's Department (LASD) Major Crimes Bureau Surveillance Team (MCB-SAT) were asked to assist in the location and apprehension of Carl Chavis, who had an active arrest warrant for an assault on a police officer, grand theft, and unlawful taking of a motor vehicle. Detective Jeff Doke contacted [redacted] of MCB-SAT and requested their assistance at a Motel 6 on Pacific Coast Highway in the City of Long Beach.

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[redacted] assembled his team, which consisted of himself, [redacted] Detective George Semenez, [redacted] and Lieutenant Don Johnson and went to the Motel 6. The surveillance team set up in positions to watch the parking lot of the motel, then went around the corner to be briefed by Doke. Two Lakewood deputies, Michael Mabee and Brian Bank, were brought in to assist and were also briefed. Doke advised that Chavis had initially rented a vehicle and failed to return it. Doke was assigned to investigate the matter, and upon learning Chavis was on formal probation attempted to have him arrested during a meeting with his probation officer. Chavis recognized that the deputies were there to arrest him, and fled the scene in a stolen vehicle. A pursuit ensued, but Chavis was able to escape. On February 11, 2014, an officer from the Bell Gardens Police Department was conducting a suspicious vehicle investigation at Ford Park in the City of Bell Gardens. As the officer approached the vehicle, Chavis, who was reclined in the driver's seat, suddenly sat up and accelerated his vehicle toward the officer. The officer was struck by the vehicle, thrown onto another parked vehicle, and landed on the asphalt. The officer suffered moderate injuries. Doke also disseminated an information bulletin which included a photograph of Chavis, his affiliation with the Paramount Locos criminal street gang, and his prior arrest history which included multiple firearm offenses and attempted murder. Doke advised the team that the stolen vehicle had been recovered, and that an informant had told him Chavis might be staying at the Motel 6.

The surveillance team set up in locations where they could view room 121, where Chavis was believed to be staying, from a distance. [redacted] observed a male matching Chavis' description exit the room, but was not able to make a positive identification. Doke went to the front office of the motel and showed a motel employee a photograph of Chavis to confirm his identity. Once Chavis had been identified, Doke notified the rest of the team.

As they continued to watch room 121, [redacted] observed Chavis exit the room and enter a silver compact vehicle. Chavez backed the vehicle into a parking spot in front of room 121. Fearing that Chavis would flee in the vehicle and engage in another pursuit, a decision was made to contact Chavis immediately in the parking lot. [redacted] and [redacted] each drove unmarked LASD vehicles into the parking lot, in the direction of Chavis' vehicle in an attempt to block his vehicle from exiting. A marked patrol vehicle driven by Banks, with Mabee as a passenger, entered the parking lot behind [redacted] and [redacted] As [redacted] and [redacted] approached, Chavis entered the driver's seat of the silver car and began reaching down to the floorboard of the vehicle. [redacted] believed Chavis was arming himself with a firearm.[1] Preparing for a possible altercation with Chavis, [redacted] unholstered his service weapon and opened his driver's side door. [redacted] steered the vehicle with his left hand while holding his weapon with his right hand. As [redacted] slowed his vehicle and prepared to exit, Chavis accelerated and crashed his vehicle into both [redacted] and [redacted] vehicles, managing to create and then push through a gap between the two vehicles. The force of the collision threw [redacted] from his vehicle.[2]

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[1] [redacted] was approximately 15 yards from Chavis at this point.
[2] [redacted] suffered an injury to his right ankle as a result of having been thrown from the vehicle.

Chavis was now heading directly towards Banks and Mabee's oncoming patrol vehicle. Fearing that Chavis was armed, and intended to crash into the patrol vehicle in an attempt to escape the parking lot, [redacted] fired three rounds from his service weapon.

Chavis continued to accelerate towards Banks and Mabee's patrol vehicle. Having just seen Chavis ram the two unmarked police vehicles driven by [redacted] and [redacted] and hearing gunshots, Mabee believed that Chavis had fired on [redacted] and [redacted] As Chavis' vehicle got closer, Mabee observed an object in Chavis' hand which he believed was a firearm.[3] Fearing for his life and that of his partner, Mabee fired six to seven rounds from his service weapon through the open passenger window of the patrol car. Banks simultaneously swerved, narrowly avoiding a collision with Chavis' vehicle.

Chavis' vehicle veered to the west, and crashed into a wrought iron fence dividing the parking lot of the Motel 6 from the parking lot of an adjacent restaurant. Chavis' vehicle impacted with sufficient force to cause his vehicle to go through the fence and strike another vehicle parked in the restaurant parking lot. Mabee exited his vehicle and began ordering Chavis to show his hands and take the keys out of the ignition. Chavis ignored these orders and placed his still-running vehicle in reverse. Mabee could see the reverse lights come on and the tires spinning in reverse.[4] Smoke was emitting from the tires, but the vehicle was impaled on the wrought iron fence and not moving. Mabee then observed Chavis reaching around in the interior of the vehicle. Mabee believed Chavis was attempting to regain control of a firearm he may have dropped in the collision. Mabee then noticed that the vehicle appeared to be gaining traction. The front end of Chavis' vehicle was lifting, and starting to break free from the wrought iron fence. Knowing that if the vehicle broke free, it would accelerate directly towards him and other deputies near him, Mabee fired three to four rounds from his service weapon.[5]

Chavis stopped moving and revving the engine. After several commands, Chavis exited the vehicle and laid on the ground. [redacted] took Chavis into custody and removed a black fanny pack from his waist. Inside the fanny pack, [redacted] recovered a black semi-automatic "Ruger" pistol.[6]

Chavis suffered two non-fatal gunshot wounds to his right thigh and the back of his right shoulder. When interviewed by investigators, Chavis indicated he was aware that [redacted] and [redacted] vehicles were police vehicles. He deliberately accelerated his vehicle in an effort to escape. Chavis stated that he "put his head down, floored it and sped away." Chavis indicated he believed he then blacked out, and did not remember what happened next. The next thing he remembered was having crashed into the wrought iron fence. Chavis stated he put the vehicle in reverse and accelerated in an effort to get away. Chavis admitted the firearm recovered from the fanny pack was his and told

[3] Banks also observed the object and believed it was a firearm.
[4] Multiple other witnesses also observed Chavis attempting to back the vehicle up after having collided with the wrought iron fence.
[5] Investigators determined Mabee fired a total of 10 rounds from his service weapon.
[6] Banks observed the recovery of the firearm and advised investigators that he believed it was the same weapon he observed Chavis holding prior to Mabee firing his service weapon.

investigators, "I have two strikes and I can't live in prison." When asked if he had wanted the police to shoot him, Chavis responded, "I always thought I did. Today I couldn't pull the gun up. I was telling myself pick it up, let them see it. I prayed to God to give me the balls to pull this gun out, let them do what they have to do." Chavis told investigators he was unable to pull the firearm out, and ultimately surrendered.

Chavis was charged in case with two counts of attempted murder of a peace officer while personally using a firearm, two counts of assault on a peace officer, and one count of possession of a firearm by a felon stemming from this incident in case VA133876.[7]

LEGAL ANALYSIS

California law permits the use of deadly force in self-defense or in the defense of others if it reasonably appears to the person claiming the right of self-defense or the defense of others that he actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. Penal Code § 197; *People v. Randle* (2005) 35 Cal.4th 987, 994 (overruled on another ground in *People v. Chun* (2009) 45 Cal.4th 1172, 1201); *People v. Humphrey* (1996) 13 Cal.4th 1073, 1082; *see also*, CALCRIM No. 505.

In protecting himself or another, a person may use all the force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent. CALCRIM No. 3470. If the person's beliefs were reasonable, the danger does not need to have actually existed. *Id.*

"Where the peril is swift and imminent and the necessity for action immediate, the law does not weigh in too nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety." *People v. Collins* (1961) 189 Cal.App.2d 575, 589. "The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than the 20/20 vision of hindsight....The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation." *Graham v. Conner* (1989) 490 U.S. 386, 396-397.

California law also permits the use of deadly force by police officers when necessary to affect the arrest of a person who has committed a forcible and atrocious felony which threatens death or serious bodily harm. *People v. Ceballos* (1974) 12 Cal.3d 470. Forcible and atrocious crimes are those crimes whose character and manner reasonably create a fear of death or serious bodily injury. *Ceballos, supra,* 12 Cal.3d at 479. "An officer may use reasonable force to make an arrest, prevent escape or overcome resistance." *Brown v. Ransweiler* (2009) 171 Cal.App.4th 516. When protecting the public peace, a police officer "is entitled to even greater use of force than might be in the same circumstances required for self-defense." *Id.*

[7] The information in that case also alleges charges stemming from the original vehicle theft and the assault on the Bell Gardens officer Chavis struck with his vehicle.

The U.S. Supreme Court has further clarified that when an escaping felon is using a vehicle to effectuate his escape, the risk to the lives of innocent bystanders may be higher. Even after a vehicular chase ends, officers may reasonably believe a suspect is intent on resuming flight, and if allowed to do so would again pose a deadly threat to others on the road. Under those circumstances, an officer's use of deadly force is reasonable even after the suspect's vehicle has stopped moving. *Plumhoff v. Rickard* (2014) 134 S. Ct. 2012.

The evidence examined in this investigation shows that [redacted] and Deputy Mabee were tasked with locating and arresting a dangerous felon who had recently assaulted another officer with a vehicle. After using his vehicle to collide with two unmarked police cars in an attempt to escape, Chavis was driving in a manner which reasonably caused [redacted] to fear for the safety of Banks and Mabee. [redacted] was thus justified in using deadly force in an effort to protect his fellow deputies and apprehend Chavis.

Mabee, having seen Chavis ram [redacted] and [redacted] vehicles, and believing the gunfire he heard was Chavis firing on his fellow deputies, was also in fear for his safety and that of his partner when he fired his weapon at Chavis' approaching vehicle. Mabee's use of deadly force was reasonable in light of his belief that Chavis had a gun in his hand, had fired at other deputies, and was intending to collide with the patrol vehicle Mabee was sitting in. Mabee's second round of shots was also justified, given Chavis' refusal to follow commands to show his hands, reaching around the floorboard as if to recover a firearm, and attempts to back his vehicle into Mabee and other nearby deputies. Mabee's use of deadly force was justified in self-defense, defense of others and to apprehend a dangerous fleeing felon.

CONCLUSION

We find that [redacted] and Deputy Mabee acted lawfully in self-defense, in defense of others, and in an attempt to apprehend a dangerous fleeing felon when they used deadly force against Carl Chavis. We are closing our file and will take no further action in this matter.

Very truly yours,

JACKIE LACEY
District Attorney

By

ANN MARIE WISE
Deputy District Attorney
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c: [redacted] # [redacted]
Deputy Michael Mabee # [redacted]